

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA**

DOROTHY BILLS,)	
)	
Plaintiff,)	
)	Case No. 2:22-cv-00093
v.)	(formerly Civil Action No. 21-C-319 in
)	the Circuit Court of Wood County)
WVNH EMP, LLC,)	
an Ohio Corporation, and)	
LANETTE KUHNASH,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Under 28 U.S.C. §§ 1441, 1446, and 1332, Defendants WVNH EMP, LLC and Lanette Kuhnash (collectively “Defendants”) give Notice of Removal of the above-captioned matter, Civil Action No. 21-C-319, formerly pending in the Circuit Court of Wood County, West Virginia, to the United States District Court for the Southern District of West Virginia. In support of removal, Defendant states as follows:

I. Factual Background

1. On or about December 15, 2021, Plaintiff filed a single plaintiff employment action against Defendant in the Circuit Court of Wood County, West Virginia.
2. Plaintiff filed an Amended Complaint on February 9, 2022.
3. The Amended Complaint was served on undersigned counsel for Defendant on February 16, 2022.
4. Plaintiff’s Complaint purports to set forth a claim for wrongful termination and retaliation under the W.VA Code § 5-11, *et seq.* and the West Virginia Human Rights Act. Specifically, Plaintiff alleges that she was terminated and retaliated against for her actions in resisting sexual harassment by a patient.

5. No further substantive proceedings have taken place in this action since the receipt of the Amended Complaint.

6. Under 28 U.S.C. § 1446(a), copies of all process and pleadings served upon Defendant, along with a copy of the State Court Docket Sheet, are attached as **Exhibit A**.

II. Diversity Jurisdiction Exists

7. This action is removable under 28 U.S.C. § 1441(a) because the United States District Court has original jurisdiction under 28 U.S.C. § 1332(a), which provides that “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between – (1) citizens of different states.”

8. **The amount in controversy exceeds \$75,000.** Plaintiff’s Complaint does not claim a specific sum, however, Plaintiff “demands the value of lost wages, emotional distress, punitive damages, costs and attorneys’ fees, and such other relief as may be appropriate....” (*See* Complaint, attached as Exhibit A.) Accordingly, while Defendant denies the validity of Plaintiff’s claims as well as Plaintiff’s entitlement to the damages she seeks, Defendant acknowledges that Plaintiff believes the amount in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000, thus exceeding the jurisdictional amount of \$75,000 set forth in 28 U.S.C. § 1332(a).

9. **This action is between citizens of different states.** Plaintiff’s Complaint alleges that Plaintiff is an adult individual who resided in West Virginia during her employment and at the time of her termination. (*Id.* at ¶ 1.)

10. Defendant Lanette Kuhnash is a resident of Ohio.

11. Defendant is an Ohio limited liability corporation with its principle place of business in Ohio from which the corporation's high level officers direct, control, and coordinate the corporation's activities.

12. Therefore, this Court has original jurisdiction, under 28 U.S.C. § 1332 because the parties are completely diverse, and the amount in controversy exceeds \$75,000. Both the complete diversity and the amount in controversy in excess of \$75,000 exist as of the date of this Notice of Removal.

III. Removal to this District is Proper

13. For the reasons outlined above, Plaintiff's claim is an action over which the District Court of the United States has original jurisdiction pursuant to 28 U.S.C. § 1332, and is therefore properly removable pursuant to 28 U.S.C. § 1441(a) to the District Court of the United States embracing the place where such action is pending.

IV. Conclusion

14. Under 28 U.S.C. § 1446(d), a copy of this Notice of Removal, with a Notice of the Filing of the Notice of the Removal, will be sent to counsel for Plaintiff and filed with the Clerk for the Circuit Court of Wood County, West Virginia. A copy of the Notice of Filing of Notice of Removal is attached as **Exhibit B**.

15. By filing this Notice of Removal, Defendant waives no available defenses.

WHEREFORE, Defendants WVNH EMP, LLC and Lanette Kuhnash respectfully request that the aforementioned civil action be removed from the Circuit Court of Wood County, West Virginia to the United States District Court for the Southern District of West Virginia, and that the Circuit Court of Wood County, West Virginia proceed no further with said action.

Dated: February 22, 2022

Respectfully submitted,

/s/ Maria Greco Danaher

Maria Greco Danaher, Esq.

WV ID No. 10986

OGLETREE DEAKINS

One PPG Place, Suite 1900

Pittsburgh, PA 15222

(412) 394-3390

Attorney for Defendants

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LANETTE KUHNASH,)	
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CERTIFICATE OF SERVICE

I hereby certify that this 22nd day of February, 2022, a true and correct copy of the foregoing document was served, via email and U.S. First Class Mail, postage pre-paid, to the following:

Walt Auvil
Kirk Auvil
1208 Market Street
Parkersburg, WV 26101
auvil@theemploymentlawcenter.com

Attorneys for Plaintiff

/s/Maria Greco Danaher
Maria Greco Danaher

Attorney for Defendants

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

DOROTHY BILLS

(b) County of Residence of First Listed Plaintiff Pleasants Cty, WV
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Walt Auvil, Esq., Kirk Auvil, Esq. The Employment Law
Ctr. PLLC, 1208 Market St., Parkersburg, WV 26101
304.485.3058

DEFENDANTS

WVNH EMP, LLC

County of Residence of First Listed Defendant State of Ohio
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Maria Greco Danaher, Esq. Ogletree Deakins, One PPG
Place, Suite 1900, Pittsburgh, PA 15222 412.394.3333

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing " 28 U.S.C. § 1332):

Brief description of cause:
Plaintiff alleges wrongful termination and retaliation.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ >\$75,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

/s/Maria Greco Danaher

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____